




## OBJECTIVES

- Describe the background, including the purpose of the Temporary Worker Initiative
- Recognize the joint employment structure
- Describe what issues to consider when conducting inspections at a workplace with temporary workers

A photograph showing three men in a workshop or industrial setting. The man on the left is wearing a dark green long-sleeved shirt. The man in the middle is wearing a white button-down shirt and a black headband. The man on the right is wearing a light-colored button-down shirt, a yellow hard hat, and safety glasses. They are all looking down at a tablet computer held by the man on the right.

2

## TEMPORARY WORKER STATISTICS

In April 2012, the Bureau of Labor Statistics preliminary data from the Census of Fatal Occupational Injuries shows fatal work injuries involving contractor worker fatalities, including **temporary help service workers**, accounted for 708, or 16 percent, of the 4,383 fatal work injuries in 2012.



## TEMPORARY WORKER FATALITIES

12/4/13 – New Jersey - Temporary worker died in fall after being caught in a sorter.

12/7/13 – Illinois - Temporary worker died after forklift he was operating fell between truck and dock.

3/12/2014 – Arkansas - Temporary worker killed in fall from rooftop.



**Amazon Workplace Faces Safety Scrutiny After 2 Deaths**

## TEMPORARY WORKER INITIATIVE

- MIOSHA launched the Temporary Worker Initiative in April 2014.
- Michigan has approximately 356 temporary staffing service offices.
- The purpose of this initiative is to help ensure that temporary staffing agencies and host employers understand their responsibilities under the Michigan Occupational Safety and Health Act.

5

## TEMPORARY HELP SERVICES NAICS - 561320

Temporary Help Services are comprised of establishments primarily engaged in supplying workers to clients' businesses for limited periods of time to supplement the working force of the client. The individuals provided are employees of the temporary help service establishment. However, these establishments do not provide direct supervision of their employees at the clients' work sites.

6

## TEMPORARY HELP SERVICES NAICS - 561320

### Illustrative Examples:

- Help supply services
- Model supply services
- Labor(except farm) contractors (i.e. personnel suppliers)
- Temporary employment or temporary staffing services
- Manpower pools

7

## DEFINITIONS

- **Temporary Employees**
  - are employees who work through employment agencies and are generally called "temporary," "leased," or "supplied" workers.
- **Host Employer**
  - is a secondary employer who enters into contracts with a "temporary," "leasing," or "supplying" employment agency.

8

**\*RANKED BY % OF EMPLOYMENT THAT IS “TEMP”  
1990 VS. 2013**

State	Feb 1990		Feb 2013	
	# (000s)	% State Employment	# (000s)	% State Employment
Michigan	51	1.3%	150	3.8%
Arizona	26	1.8%	87	3.5%
Georgia	46	1.5%	134	3.4%
Illinois	75	1.4%	187	3.3%
South Carolina	20	1.3%	55	3.0%
Indiana	25	1.0%	82	2.8%
Hawaii	5	1.0%	17	2.8%
North Carolina	35	1.1%	107	2.7%
Kentucky	8	0.6%	48	2.6%
California	222	1.8%	381	2.6%
New Jersey	45	1.2%	101	2.6%
Texas	96	1.4%	275	2.5%
Florida	32	0.6%	156	2.1%
New York	94	1.2%	132	1.5%
Ohio	36	0.8%	116	2.3%

**WHEN ARE TEMPORARY EMPLOYEES  
UTILIZED ?**

Host employers may use staffing agency employees during the following times:

- An employee absence
- A temporary skilled labor shortage
- A seasonal workload
- A special assignment or project



## BENEFITS OF TEMPORARY STAFFING ARRANGEMENT

- Flexible and scalable workforce solution to provide talent when needed
- Alleviates requisition, on-boarding, and performance management functions
  - Sourcing and screening
  - Hiring and on-boarding
  - Reporting and timekeeping
  - Employee benefits



## \*TOP 15 U.S. STAFFING FIRMS BY STAFFING REVENUE

Rank	Company	2011 Revenue (\$ million)	Market Share	Top Industry Segment(s)
1	Allegis Group	\$7,063	6.0%	IT, Industrial
2	Adecco	\$4,485	3.8%	Industrial, Clerical
3	Randstad Holding	\$4,188	3.6%	Clerical, Industrial
4	Manpower Group	\$4,094	3.5%	Industrial, IT
5	Kelly Services	\$3,149	2.7%	Industrial, Clerical
6	Robert Half International	\$2,343	2.0%	Finance, Clerical
7	Recruit Co. Ltd.	\$2,255	1.9%	Industrial, Clerical
8	Express Employment Professionals	\$2,029	1.7%	Industrial, Clerical
9	Insperty	\$1,976	1.7%	PEO
10	Select Family of Staffing Companies	\$1,778	1.5%	Industrial, Clerical
11	Volt Information Services	\$1,724	1.5%	IT, Engineering
12	Automatic Data Processing	\$1,648	1.4%	PEO
13	TrueBlue/Labor Ready	\$1,266	1.1%	Industrial
14	Kforce	\$1,111	0.9%	IT, Finance
15	AMN Healthcare Services	\$887	0.8%	Healthcare

## OSHA CITES HOST EMPLOYER

### Maplewood Beverage Packers LLC

- Develop and implement an emergency response plan for employees required to respond to spills of hazardous substances.
- Ensure exit routes were adequate.
- Utilize lockout/tagout procedures to protect workers from moving machine parts while cleaning a labeling machine.
- Implement a hazard communication program and train workers who handle hazardous substances.

13

## OSHA CITES HOST EMPLOYER

### Maplewood Beverage Packers LLC

- Remove powered industrial trucks in need of repair from service.
- Provide machine guarding.
- Label spray bottles containing hazardous chemicals.
- Provide employees with baseline audiograms and train all employees exposed to excessive noise.

14

## OSHA CITES TEMPORARY AGENCY

### Corporate Resource Services Corp

- Failure to conduct a hazard assessment of the workplace.
- Failure to ensure that each employee was informed of the effects of noise on hearing and inform each employee about hearing protectors.

15

## TOXIC PCB CONTAMINATION AT WAL-MART RETURN CENTER LEADS TO EVACUATION, LAWSUIT

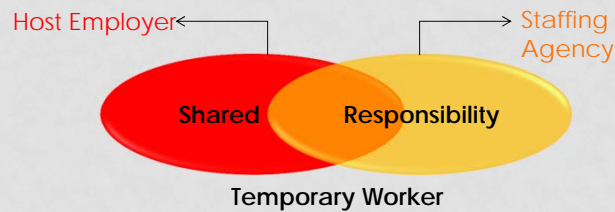
- PCB's at Walmart Return Center
- Companies Involved
  - Walmart
  - Excel Logistic Co.





## JOINT EMPLOYMENT STRUCTURE

- Both the host employer and the staffing agency are employers of the temporary worker.
- Share responsibility and control over the employee.



17

## SHARED RESPONSIBILITY

### Temporary Staffing Agency

- Hazard Communication
  - Staffing agency trains on generic program elements (example: safety data sheets and labeling)
- Lockout/Tagout
  - Staffing agency may provide awareness level training

### Host Employer

- Hazard Communication
  - Host company trains on site- specific elements and the specific chemicals used
- Lockout/Tagout
  - Host company (if applicable) provides training on energy control procedures

18

## SHARED RESPONSIBILITY

### Temporary Staffing Agency

- Emergency Action Plans
  - Staffing agency trains on generic program elements (example: means of reporting emergencies and alarm system requirements)
- Recording and Reporting of Occupational I & I
  - Staffing agency may provide procedures for obtaining treatment for on-the-job injuries and illnesses - what, when to report

### Host Employer

- Emergency Action Plans
  - Host company provides site-specific routes of exit, muster locations, local emergency contact numbers and alarm notifications
- Recording and Reporting of Occupational I & I
  - Host company records injuries/illnesses for directly supervised temporary workers

19

## MIOSHA RECORDKEEPING

Host employers who use the services of temporary staffing agencies and who provide **day-to-day supervision** of the temporary employee are required to record the employee's injuries on the host employer's log. If the temporary staffing agency provides the day-to-day supervision of the activities of the temporary employee, then the injury should be recorded on the staffing agency's log.

20



## OSHA RECORDKEEPING

OSHA says-

- [Host Employer must record if day-to-day supervision](#)  
Output, product, or result to be accomplished.  
Details, means, methods, and processes by which the work is to be accomplished.
- [TWI Bulletin No. 1](#)  
Essentially, an employer is performing day-to-day supervision when that employer controls conditions presenting potential hazards and directs the worker's activities around, and exposure to, those hazards.

22

## PIV TRAINING AND CERTIFICATION

OSHA asks ([PIV FAQ](#)) -

I employ drivers from a temporary agency. Who will provide them training - the temporary service or me?

...there is a shared responsibility ...

The temporary agency or the contracting employer **may** conduct the training and evaluation of operators from a temporary agency as required by the standard; however, the host employer **must** provide site-specific information and training.

23

## CONTRACT LANGUAGE

**Contract says -**

Customer will:

1. Provide Assigned Employees with a safe and suitable workplace that complies with all applicable safety and health standards, statutes, and ordinances, (including all **site-specific training related to the chemical, physical, and biological hazards in the workplace**), and provide all required information and safety equipment applicable to Assigned Employee's placement.
2. Provide adequate internal controls, supervision, and instructions for Assigned Employees.

24

## CONTRACT LANGUAGE

Contract continues –

Customer will:

3. Use Assigned Employees only in assignments that match the job descriptions; provide prompt notice of:

- any injury suffered by an Assigned Employee (and adhere to OSHA recordkeeping requirements)

[ASA 2015 General Staffing Agreement-Safety-Specific Clause](#)

**Train and Treat as Direct Hire**

**Communicate**

25

## IMPORTANT CONSIDERATIONS

- Which employer is best suited to comply with specific requirements?
- Staffing agency's **duty to inquire**
- **Joint employers:** Are respective safety & health responsibilities spelled out in the host/staffing agency contract?

26



## IMPORTANT CONSIDERATIONS

- Staffing agencies **may be** best positioned for general safety training, long-term medical surveillance
- Host employers normally responsible for workplace-specific training and compliance with standards
- Both employers may be held responsible for violative conditions

27

## IMPORTANT CONSIDERATIONS

- Who supervises workers? Day-to-day supervision occurs when "... the employer supervises the details, means, methods and processes by which the work is to be accomplished"
- Do workers know their MIOSHA/OSHA rights?
- Each case must be evaluated on its own facts

28

## IMPORTANT CONSIDERATIONS

- Involve the host safety and health professionals where temporary employees are placed in the work environment and ensure they have reporting/emergency contact information for temporary agency on file and readily accessible.
- The host employer should ensure all temporary employees are included in a company orientation that is essentially the same as company employee orientation (especially being sure to include safety and health procedures sections).
- Host employers who regularly use the same temporary agency may wish to include a link to the temporary agency's incident forms which should include the contact information for the temporary agency on the host employer's website. This information should be included during new employee orientation when temporary employees are present.

29

## IMPORTANT CONSIDERATIONS

- Safety and health professionals should have a list of temporary employees and which agencies they represent to ensure they have correct forms, etc. on file.
- Communication and partnerships between staffing agencies and host employers are key to ensuring a safe work environment for temporary workers.

30

## BEST PRACTICES

Staffing agency & host employer should **both**:



- Have an Injury and Illness Prevention Program
- Perform a hazard assessment of the worksite
- Define scope of work in the contract
- Conduct new project orientation and safety training that addresses hazards to which temporary workers may be potentially exposed
- Maintain communication with the worker and each other

31

## RESOURCES

- OSHA.gov/temp\_workers
- OSHApedia
  - [http://oshapedia.osha.gov/mediawiki/index.php/Temporary\\_Worker\\_Initiative](http://oshapedia.osha.gov/mediawiki/index.php/Temporary_Worker_Initiative)  
(linked to the OSHApedia home page)
- MIOSHA News Temporary Worker A Shared Responsibility.
  - [http://www.michigan.gov/documents/lara/lara\\_miosha\\_news\\_spring-summer14\\_461359\\_7.pdf](http://www.michigan.gov/documents/lara/lara_miosha_news_spring-summer14_461359_7.pdf)
  - [Safety Inspection Checklist](#)
  - [Workplace Health Inspection Checklist](#)

